IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2006

CORAM

THE HON'BLE MR.JUSTICE R.REGUPATHI

CRL.R.C.No.1275 of 2006
and
Crl.M.P.No.1 of 2006

Anjana .. Petitioner.

Versus

State: rep.by
The Inspector of Police,
Anti Vice Squad,
Chindadripet Police Station,
Chennai-600 002. .. Respondent.
(Cr No. 198/05)

Prayer: Revision under Section 397 and 401 Cr Pc against the order passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in M.P.No.7464 of 2005 dated 04.01.2006.

For petitioner : Mr. C.C.Chellappan

For respondent : Mr. P.Kumaresan
Additional Public Prosecutor.

ORDER

The petitioner is the fourth accused among four accused in the case pending in Crime No.198 of 2005 for the offence punishable under Sections 3(1)(, 4(1)(, 5(1) and 6(1) of the Immoral Traffic (Prevention) Act and she is the owner of Ford Icon Car bearing registration No.TN 09 R 1971 bearing Engine No.YC 08688 and Chasis No.MAJAXXMRTAYC 08688. This petition is filed by the petitioner, seeking to setting aside the order passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in M.P.No.7464 of 2005 dated 04.01.2006, in and by which, the petition for return of property, which was involved in the above said offences, came to be refused.

2. The petitioner, who is arrayed as an accused, is the owner of the vehicle. The prosecution case is that by using the vehicle, the alleged offence is said to have been committed. A petition for return of the vehicle has been filed before the learned Magistrate. The impugned order has been passed by observing that the petitioner has been arrayed as an accused in this case and the investigation is still pending.

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3. The learned counsel for the petitioner submits that she is owner of the vehicle and she has relevant documents to substantiate the same and that she will produce the vehicle as and when required. He would further submit that the case is under investigation and it may take considerable time for completion of the enquiry and trial and in the meantime, if the vehicle is kept in the custody of respondent police endlessly, the value of the property would be diminished and it may not serve useful purpose and on such grounds would pray for return of the vehicle. However, the petitioner undertakes that she will produce the original R.C. Book of the vehicle as well as the address proof and further she is prepared to abide by the conditions imposed by the Court below.

4. I have perused the entire materials on record and heard the learned Additional Public Prosecutor in this regard.

5. In a case reported in 2003 SCC (Cri) 1943, Sunderbhai Ambalal Desai vs. State of Gujarat, it has been held as follows:

> "In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

7. In view of the facts and circumstances of the case, the order dated 04.01.2006 passed by the learned XVII Metropolitan Magistrate, Saidapet, Chennai, in M.P.No.7464 of 2005, is set aside and the learned Magistrate is directed to conduct an enquiry, as per the direction of the Supreme Court in the reported case as mentioned above and pass orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this petition is ordered. Consequently, connected Crl.M.P. is closed.

bs/

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The XVII Metropolitan Magistrate, Saidapet, Chennai.

2. - do - Thro The Chief Metropolitan Magistrate, Chennai - 8

3. The Inspector of Police,Anti Vice Squad,
Chindadripet Police Station, Chennai-600 002.

4. The Public Prosecutor, High Court , Madras.

+ one cc to Mr. C.C. Chellappan, Advocate sr no. 58041

JRG(CO)
NM(05.12.2006)

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